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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,442	06/19/2000	Matthew R Perkins	CM03017J	4005

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James A Lamb  
Motorola Inc  
Intellectual Property Section Law Department  
8000 West Sunrise Boulevard  
Ft. Lauderdale, FL 33322

EXAMINER
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LY, NGHI H

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 07/26/2004.

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/596,442

Applicant(s)

PERKINS ET AL.

Examiner

Nghi H. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al (US 5,666,655) in view of Corrigan III et al (US 6,697,345).

Regarding claim 1, Ishikawa teaches a method for accessing a radio communication system having a plurality of radios (see column 4, lines 54-57), comprising the steps of: (a) separating the plurality of radios into two or more groups (see column 22, lines 18-20), (b) gathering a communication statistic on the plurality of radios (see column 22, lines 18-22) and c) grouping of radios based on the communication statistic gathered in step (b) (see column 22, lines 18-22).

Ishikawa does not specifically disclose when the communication statistic is relating to a connection.

Corrigan teaches the communication statistic is relating to a connection (see column 12, lines 44-45).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to provide the teaching of Corrigan into the system of

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Ishikawa so that the remote terminals may thus be grouped according to channel quality (see Corrigan, column 12, lines 44-45).

Ishikawa or Corrigan does not specifically disclose reconfiguring the grouping of radios. However, since the *distances, the moving directions, and the moving speeds of the mobile station* (see column 22, lines 18-22) in the system of Ishikawa varies at time, it would have been obvious to one of the ordinary skill in the art to modify Ishikawa such that the group of mobile units are reconfiguring, so that the groups can be associated with the *changing distances, the moving directions, and the moving speeds of the mobile station*.

Regarding claim 2, Ishikawa further teaches comprising the step of: (d) allowing access to the radio communication system based on the grouping of the radios (see column 22, lines 18-22).

Regarding claims 3-5 and 17, the combination of Ishikawa and Corrigan teaches the communication connection statistic gathered in step (b) comprises the changing distances, the moving directions, and the moving speeds of the mobile station by each of the plurality of radios (see Ishikawa, column 22, lines 18-22). The combination of Ishikawa and Corrigan teaches does not specifically disclose communication connection statistic gathered in step (b) comprises the average channel usage, channel accesses per unit time, priority and talk-time by each of the plurality of radios. However, those skilled in the art would have appreciated that the system of Ishikawa and Corrigan also be used with other statistic such as average channel usage, channel accesses per unit time, priority and talk-time by each of the plurality of radios.

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Ishikawa and Corrigan, so that the communication statistic comprises more features.

Regarding claim 6, the combination of Ishikawa and Corrigan further teaches the communication connection statistic gathered in step (b) comprises the average received signal strength of each of the plurality of radios (see Corrigan, column 12, lines 44-45).

Regarding claim 7, the combination of Ishikawa and Corrigan teaches steps b and d. The combination of Ishikawa and Corrigan inherently teaches repeating steps (b) through (d) periodically (see rejection of claim 1 above). Since *the distances, the moving directions, and the moving speeds of the mobile station* (see column 22, lines 18-22) in the in system of Ishikawa varies at time, it would have been obvious to one of the ordinary skill in the art to modify Ishikawa such that repeating steps (b) through (d) periodically, so that the groups can be associated with the *changing distances, the moving directions, and the moving speeds of the mobile station* (see Ishikawa, column 22, lines 18-22).

Regarding claim 9, Ishikawa further teaches the step (b) is performed by a radio communication system controller (see column 7, lines 48-55).

3. Claims 8, 10-14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al (US 5,666,655) in view of Corrigan III et al (US 6,697,345) and further in view of Cook et al (US 6,389,284).

Regarding claim 8, the combination of Ishikawa and Corrigan teaches a method as defined in claim 1. The combination of Ishikawa and Corrigan does not specifically disclose the two or more groups of radios established in step (a) can access the radio communication system at specified times which are different for each of the two or more groups. Cook teaches the two or more groups of radios established in step (a) can access the radio communication system at specified times which are different for each of the two or more groups (see column 3, lines 12-15).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to provide the teaching of Cook into the system of Ishikawa and Corrigan in order to minimize interference to other service providers (see Cook, column 7, lines 13-15).

Regarding claim 10, the combination of Ishikawa, Corrigan and Cook further teaches a step (b) is performed by each of the plurality of radios (see Cook, column 3, lines 12-15).

Regarding claim 11, Ishikawa teaches a method for accessing a radio communication system having a plurality of radios (see column 4, lines 54-57), comprising the steps of: (a) separating the plurality of radios into two or more groups (see column 22, lines 18-22), (b) gathering a communication statistic on the plurality of radios (see column 22, lines 18-22) and c) grouping of radios based on the communication statistic gathered in step (b) (see column 22, lines 18-22).

Ishikawa does not specifically disclose when the communication statistic is relating to a connection.

Corrigan teaches the communication statistic is relating to a connection (see column 12, lines 44-45).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to provide the teaching of Corrigan into the system of Ishikawa so that the remote terminals may thus be grouped according to channel quality (see Corrigan, column 12, lines 44-45).

Ishikawa or Corrigan does not specifically disclose reconfiguring the grouping of radios. However, since the *distances, the moving directions, and the moving speeds of the mobile station* (see column 22, lines 18-22) in the system of Ishikawa varies at time, it would have been obvious to one of the ordinary skill in the art to modify Ishikawa such that the group of mobile units are reconfiguring, so that the groups can be associated with the *changing distances, the moving directions, and the moving speeds of the mobile station*.

The combination of Ishikawa and Corrigan does not specifically disclose (d) allowing access to the radio communication system by each of the two or more groups of radios at different predetermined periods of time. Cook teaches (d) allowing access to the radio communication system by each of the two or more groups of radios at different predetermined periods of time (see column 3, lines 12-15).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to provide the teaching of Cook into the system of Ishikawa and Corrigan in order to provide wireless access while minimizing interference to other service providers (see Cook, column 7, lines 13-15).

Regarding claim 12, the combination of Ishikawa, Corrigan and Cook teaches a method as defined in claim 11. The combination of Ishikawa, Corrigan and Cook does not specifically disclose the radio communication system comprises a time division multiple access radio communication system. However, the Examiner takes Official notice that such time division multiple access radio communication system as recited in the claim are known in the art in order to save radio spectrum and permit many simultaneous conversations over a finite frequency.

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Cook, Corrigan and Ishikawa for providing a method as claimed, in order to save radio spectrum and permit many simultaneous conversations over a finite frequency.

Regarding claim 13, Ishikawa, Corrigan and Cook teaches steps (b) and (c) are repeated periodically. The teaching of Ishikawa inherently teaches repeating steps (b) through (d) periodically (see rejection of claim 11 above). Since *the distances, the moving directions, and the moving speeds of the mobile station* (see column 22, lines 18-22) in the in system of Ishikawa varies at time, it would have been obvious to one of the ordinary skill in the art to modify Ishikawa such that repeating steps (b) through (d) periodically, so that the groups can be associated with the *changing distances, the moving directions, and the moving speeds of the mobile station* (see column 22 lines 18-22).



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Regarding claim 14, Ishikawa further teaches the communication statistic in step (b) is gathered by a central radio communication system resource (see column 1, lines 22-32).

Regarding claim 16, Ishikawa further teaches the steps (b) and (c) are performed at predetermined periods of time (see column 4, lines 33-53).

Regarding claim 18, Ishikawa teaches the communication statistic gathered in step (b) comprises the changing distances, the moving directions, and the moving speeds of the mobile station by each of the plurality of radios (see column 22, lines 18-22). Ishikawa does not specifically disclose communication connection statistic gathered in step (b) comprises the talk-time by each of the plurality of radios. However, those skilled in the art would have appreciated that the system of Ishikawa also be used with other connection statistic such as the talk-time associated with each of the plurality of radios.

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Ishikawa, so that the communication statistic comprises more features.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al (US 5,666,655) in view of Corrigan III et al (US 6,697,345) and further in view of Cook et al (US 6,389,284) and Raith (US 6,385,461).

Regarding claim 15, the combination of Ishikawa, Corrigan and Cook teaches a method as defined in claim 11. The combination of Ishikawa, Corrigan and Cook does

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not specifically disclose the communication connection statistic in step (b) is gathered by each of the plurality of radios. Raith teaches the communication connection statistic in step (b) is gathered by each of the plurality of radios (see column 2, lines 33-36 and column 2, lines 62-65).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to provide the teaching of Raith into the system of Cook Corrigan and Ishikawa in order to provide individual users with the opportunity to joint group calls at any time (see Raith, column 2, lines 25-27).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (703) 605-5164. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

*(Signature)*  
07/16/04

*(Signature)*  
7/16/04  
**LESTER G. KINCAID**  
**PRIMARY EXAMINER**